

**REMARKS**

Claims 1-67 are pending in this application.

Claims 54-67 are allowed.

Claims 1-4, 6-12, 14, 15, 17-21, 22-26, 28-34, 37, 38, 40-46, 48, and 51-53 are rejected.

Claims 5, 13, 16, 27, 35, 36, 39, 47, 49, and 50 are objected to.

Claims 5, 6, 27, and 28 have been cancelled.

Claims 1 and 24 have been amended.

All amendments are made in a good faith effort to advance the prosecution on the merits. Applicant reserves the right to subsequently take up prosecution on the claims as originally filed in this or appropriate continuation, continuation-in-part and/or divisional applications.

Applicant respectfully requests that the amendments submitted herein be entered, and further requests reconsideration in light of the amendments and remarks contained herein.

**Claim Rejections 35 U.S.C. § 102(e)**

Claims 1-4, 6-12, 17-21, 24-26, 28-34, 40-44, 48, 51, and 53 have been rejected under 35 U.S.C. 102(e) as being anticipated by Tolman et al. (6,543,538) ("Tolman").

Claims 6 and 28 have been cancelled. Applicant respectfully traverses this rejection as to claims 1-4, 7-12, 17-21, 24-26, 29-34, 40-44, 48, 51, and 53.

As to claim 1, as amended it includes the limitations of claim 5, which Examiner stated would be allowable if rewritten in independent form. Therefore, amended claim 1 is believed allowable.

Claims 2-4, 7-12, and 17-21 depend from claim 1 and are believed allowable for at least the same reasons.

As to amended claim 24, Tolman does not disclose plugging at least partially the one or more fractures in the first zone with isolation fluid before moving the hydrajetting tool to the second zone. On the contrary, Tolman suggests that the perforating device is preferably moved “before ball sealers are released into the wellbore.” See column 11, lines 22-28.

As to claim 25, Tolman does not disclose “wherein the steps of injecting the fracturing fluid into the first and second zones is performed by the hydrajetting tool, which injects the fluid into the zones at a pressure above that required to fracture the formation.” In fact, Tolman does not directly disclose that the jetting tool (410) is used to inject fracturing fluid. Rather, it states only that the “jetting tool 410 has been used to place perforations 420 to penetrate the first formation interval of interest.” Column 17, lines 19-21. While the discussion does include mention of hydraulic fractures (422) and sealed perforations (420), there is no indication that this is done with the jetting tool (410). Further, there is no indication in Tolman that this is done “at a pressure above that required to fracture the formation.”

As to claim 26, it depends from claim 25 and should be allowed for at least the same reasons.

As to claims 29-34, Tolman does not disclose selecting a material “from the group consisting of silica, a ceramic, and a bauxite,” or “from the group consisting of paraffin beads, resin solids and PLA.” In fact Tolman does not mention bauxite or PLA at all.

As to claim 40, Tolman does not disclose “pumping additional fracturing fluid into the one or more fractures in the first zone through a wellbore annulus in which the hydrojetting tool is disposed so as to propagate the fracture.” While Tolman does disclose the use of a “sub-stage,” (column 12, line 50) this discussion does not include “pumping additional fracturing fluid . . . to propagate the fracture.”

Claims 41-44, 48, 51, and 53 depend from claim 40 and are believed allowable for at least the same reasons

Accordingly, 1-4, 6-12, 17-21, 24-26, 28-34, 40-44, 48, 51, and 53 are believed patentable over Tolman. Examiner is therefore requested to withdraw his rejection of these claims and allow these claims to issue.

**Claim Rejections 35 U.S.C. § 103(a)**

Claims 14, 15, 37, 38, and 52 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Tolman in view of Montgomery (6,070,666).

Applicant respectfully traverses this rejection as to claims 14, 15, 37, 38, and 52.

As to claims 14 and 15, they depend from amended claim 1, which includes the limitations of claim 5. Since Examiner stated that claim 5 would be allowable if rewritten in independent form, claims 14 and 15 are believed allowable for at least the same reasons.

As to claim 37, neither Tolman nor Montgomery discloses “removing the isolation fluid from the first zone.” Rather Montgomery discloses only “the mixture of proppant and slump-inhibiting material may be removed from the well by sand washing or the like.”

As to claim 38 it depends from claim 37 and should be allowed for at least the same reasons.

As to claim 52, it depends from claim 40. As discussed above with respect to § 102, Tolman does not disclose the elements of claim 40. More specifically, Tolman does not disclose “pumping additional fracturing fluid into the one or more fractures in the first zone through a wellbore annulus in which the hydrajetting tool is disposed so as to propagate the fracture.” While Tolman does disclose the use of a “sub-stage,” (column 12, line 50) this discussion does not include “pumping additional fracturing fluid . . . to propagate the fracture.” Similarly, Montgomery does not disclose “pumping additional fracturing fluid . . . to propagate the fracture.” In fact, Montgomery expresses that exposing previously fractured locations to fracturing pressure is undesirable, stating that “[t]his results in unwanted extensions of the first fractures.” (Column 3, lines 10-17). Neither Tolman nor Montgomery teaches the limitations of claim 40. Therefore, neither Tolman nor Montgomery teaches the limitations of dependent claim 52.

Accordingly, claim 14, 15, 37, 38, and 52 are believed patentable over Tolman in view of Montgomery. Examiner is therefore requested to withdraw his rejection of these claims and allow these claims to issue.

**Claim Rejections 35 U.S.C. § 103(a)**

Claims 22, 23, 45, and 46 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Tolman in view of Desbrow (2,758,653).

Applicant respectfully traverses this rejection as to claims 22, 23, 45, and 46.

As to claims 22 and 23, they depend from amended claim 1, which includes the limitations of claim 5. Since Examiner stated that claim 5 would be allowable if rewritten in independent form, claims 22 and 23 are believed allowable for at least the same reasons.

As to claim 45, it depends from claim 40. As discussed above with respect to § 102, Tolman does not disclose the elements of claim 40. More specifically, Tolman does not disclose “pumping additional fracturing fluid into the one or more fractures in the first zone through a wellbore annulus in which the hydrajetting tool is disposed so as to propagate the fracture.” While Tolman does disclose the use of a “sub-stage,” (column 12, line 50) this discussion does not include “pumping additional fracturing fluid . . . to propagate the fracture.” Similarly, Desbrow does not disclose “pumping additional fracturing fluid . . . to propagate the fracture.” Rather, Desbrow discloses only that “further liquid and a propping agent may be pumped into the well at the option of the operator.” (Column 6, lines 73-75). It does not disclose that it is fracturing fluid or that it propagates the fracture. Neither Tolman nor Desbrow teaches the limitations of claim 40. Therefore, neither Tolman nor Desbrow teaches the limitations of dependent claim 45.

As to claim 46, it depends from claim 45 (which depends from claim 40) and should be allowed for at least the same reasons.

Accordingly, independent claims 22 and 23 are believed patentable over Tolman in view of Desbrow, as are claims 45 and 46. Examiner is therefore requested to withdraw his rejection of these claims and allow these claims to issue.

**Objection to Claims**

Claims 5, 13, 16, 27, 35, 36, 39, 47, 49, and 50 are objected to as being dependent upon rejected base claims, but Examiner noted that they would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims.

The limitations of claim 5 and claim 1 have been combined as suggested by Examiner. However, rather than amending claim 5, the limitations were added to claim 1. Claims 5 and 27 have been cancelled. As to claims 13, 16, 35, 36, 39, 47, 49, and 50, Applicant contends that they are allowable. Claims 13, 16, 35, 36, 39, 47, 49 and 50 depend from independent claims 12, 14, 24, and 40, which are allowable as indicated above.

**Allowable Subject Matter**

Applicant gratefully acknowledges Examiner's allowance of claims 54-67.

SUMMARY

In light of the above amendments and remarks, Applicant respectfully submits that the application is now in condition for allowance and early notice of the same is earnestly solicited. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile or electronic mail, as indicated below.

Applicant believes that there are no fees due in association with the filing of this Response. However, should the Commissioner deem that any fees are due, including any fees for any extensions of time, Applicant respectfully requests that the Commissioner accept this as a Petition therefore, and directs that any fees be debited from Baker Botts L.L.P., Deposit Account No. 02-0383, (*formerly Baker & Botts, L.L.P.*) Order Number 063718.0504.

Respectfully submitted,

BAKER BOTTS L.L.P. (023640)

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By: 

Paul R. Morico

Registration No. 35,960

One Shell Plaza

910 Louisiana Street

Houston, Texas 77002-4995

Telephone: 713.229.1732

Facsimile: 713.229.7732

email: paul.morico@bakerbotts.com

ATTORNEY FOR APPLICANT